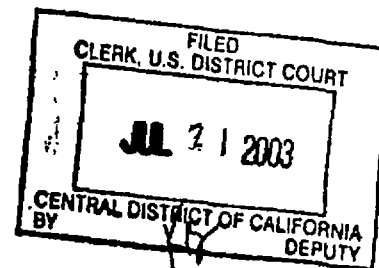


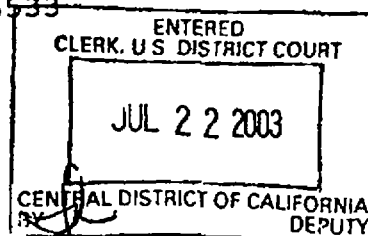
1 THOMAS L. SANSONETTI
Assistant Attorney General
2 Environmental and Natural Resources Division
BRADLEY R. O'BRIEN, State Bar No. 189425
3 Environmental Enforcement Section
Environmental and Natural Resources Division
4 United States Department of Justice
301 Howard Street, Suite 1050
5 San Francisco, CA 94105
Telephone (415) 744-6484
6 Facsimile (415) 744-6476



7 DEBRA W. YANG
United States Attorney for the
8 Central District of California
LEON W. WEIDMAN
9 Chief, Civil Division
300 North Los Angeles Street
10 Los Angeles, CA 90012

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JS-2/JS-3 ☒
Scan Only ☒

11 NANCY J. MARVEL
Regional Counsel
12 THOMAS A. BLOOMFIELD
Assistant Regional Counsel, State Bar No. 163533
13 U.S. Environmental Protection Agency
75 Hawthorne Street
14 San Francisco, CA 94105
Telephone (415) 972-3877
15 Facsimile (415) 947-3570



16 Attorneys for Plaintiff United States

17 IN THE UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 WESTERN DIVISION

20
21 UNITED STATES OF AMERICA

22 Plaintiff,

23 v.

24 SAMSON HYDROCARBONS
COMPANY et al.,

25 Defendants.
26
27

03-1078

CIVIL ACTION NO. _____

CONSENT DECREE AS TO
CROSBY AND OVERTON,
Inc.

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(d).

CDM193813

13

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1 I. BACKGROUND

2 A. The United States of America ("United States"), on
3 behalf of the Administrator of the United States Environmental
4 Protection Agency ("EPA"), filed a complaint in this matter
5 pursuant to Sections 106 and 107 of the Comprehensive
6 Environmental Response, Compensation, and Liability Act
7 ("CERCLA"), 42 U.S.C. §§ 9606, 9607, as amended, seeking
8 reimbursement of Response Costs incurred and to be incurred for
9 Response Actions taken at or in connection with the release or
10 threatened release of hazardous substances at and from the
11 Casmalia Resources Hazardous Waste Disposal site located in Santa
12 Barbara County, California.

13 B. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605,
14 EPA proposed the Site for the National Priorities List, set forth
15 at 40 C.F.R. Part 300, by publication in the Federal Register on
16 June 14, 2001, 66 Fed. Reg. 32287.

17 C. The Settling Defendant does not admit any liability to
18 the United States arising out of the transactions or occurrences
19 alleged in the complaint.

20 D. This Consent Decree provides for the Settling Defendant
21 to pay a cash payment of \$590,975 as specified in Section VII
22 (Cash Payment) of the Consent Decree. In accordance with the
23 National Contingency Plan, 40 C.F.R. part 300, and Section
24 121(f)(1)(F) of CERCLA, 42 U.S.C. § 9621(f)(1)(F), EPA notified
25 the State of California ("State") of negotiations with
26 potentially responsible parties, and EPA has provided the State
27 with an opportunity to participate in such negotiations.

1 E. The United States and the Settling Defendant agree, and
2 this Court by entering this Consent Decree finds, that this
3 Consent Decree has been negotiated by the Parties in good faith,
4 that settlement of this matter will avoid prolonged and
5 complicated litigation between the Parties, and that this Consent
6 Decree is fair, reasonable, and in the public interest.

7 NOW, THEREFORE, with the consent of the Parties to this
8 Decree it is hereby ORDERED, ADJUDGED, and DECREED:

9 II. JURISDICTION

10 1. This Court has jurisdiction over the subject matter of
11 this action pursuant to 28 U.S.C. §§ 1331 and 1345, and
12 42 U.S.C. §§ 9606, 9607, and 9613(b). This Court also has
13 personal jurisdiction over the Settling Defendant. Settling
14 Defendant shall not challenge the terms of this Consent Decree or
15 this Court's jurisdiction to enter and enforce this Consent
16 Decree.

17 III. PARTIES BOUND

18 2. This Consent Decree applies to and is binding upon the
19 United States and upon Settling Defendant and its heirs,
20 successors and assigns. Any change in ownership or corporate
21 status of Settling Defendant including, but not limited to, any
22 transfer of assets or real or personal property shall in no way
23 alter Settling Defendant's responsibilities under this Consent
24 Decree.

25
26 IV. DEFINITIONS

27 3. Unless otherwise expressly provided herein, terms used

1 in this Consent Decree that are defined in CERCLA or in
2 regulations promulgated under CERCLA shall have the meaning
3 assigned to them in CERCLA or in such regulations. Whenever
4 terms listed below are used in this Consent Decree or in the
5 appendices attached hereto and incorporated hereunder, the
6 following definitions shall apply when the first letter is
7 capitalized:

8 "CERCLA" shall mean the Comprehensive Environmental
9 Response, Compensation, and Liability Act of 1980, as amended, 42
10 U.S.C. § 9601 et seq.

11 "Consent Decree" shall mean this Decree and all appendices
12 attached hereto. In the event of conflict between this Decree
13 and any appendix, this Decree shall control.

14 "CSC Consent Decree" shall mean the Consent Decree entered
15 by the United States District Court for the Central District of
16 California on June 27, 1997 in United States v. ABB Vetco Gray,
17 Inc., et al., Civ. No. 96-6518-KMW (Jgx) ("CSC Consent Decree").

18 "Day" shall mean a calendar day unless expressly stated to
19 be a working day. In computing any period of time under this
20 Consent Decree, where the last day would fall on a Saturday,
21 Sunday, or federal holiday, the period shall run until the close
22 of business of the next working day.

23 "DOJ" shall mean the United States Department of Justice and
24 any successor departments, agencies or instrumentalities of the
25 United States.

26 "Effective Date" shall be the effective date of this Consent
27 Decree as provided in Section XIX.

1 "EPA" shall mean the United States Environmental Protection
2 Agency and any successor departments or agencies of the United
3 States.

4 "Escrow Account" shall mean the escrow account for the Site,
5 which was established pursuant to the CSC Consent Decree.

6 "Escrow Trustee" shall mean the trustee of the Escrow
7 Account.

8 "EPA Hazardous Substance Superfund" shall mean the Hazardous
9 Substance Superfund established by the Internal Revenue Code, 26
10 U.S. C. § 9507.

11 "Facility" shall mean the former permitted Casmalia
12 Resources Hazardous Waste Disposal facility, encompassing
13 approximately 252 acres, located approximately ten (10) miles
14 southwest of Santa Maria and one and a half miles north of
15 Casmalia in Santa Barbara County, California, and depicted
16 generally on the map attached as Appendix A.

17 "Interest" shall mean interest at the current rate specified
18 for interest on investments of the Hazardous Substance Superfund
19 established by 26 U.S.C. § 9507, compounded annually on October 1
20 of each year, in accordance with 42 U.S.C. § 9607(a).

21 "Municipal sewage sludge" or "MSS" shall mean any solid,
22 semi-solid, or liquid residue removed during the treatment of
23 municipal waste water or domestic sewage and may include residue
24 removed, all or in part, during the treatment of wastewater from
25 manufacturing or processing operations, provided that such
26 residue has essentially the same characteristics as residue
27 removed during the treatment of domestic sewage.

1 "Municipal solid waste" or "MSW" shall mean household waste
2 and solid waste collected from non-residential sources that is
3 essentially the same as household waste. While the composition
4 of such wastes may vary considerably, municipal solid waste
5 generally is composed of large volumes of non-hazardous
6 substances (e.g., yard waste, food waste, glass, and aluminum)
7 and can contain small amounts of such other wastes as typically
8 may be accepted in RCRA Subtitle D landfills.

9 "National Contingency Plan" or "NCP" shall mean the National
10 Oil and Hazardous Substances Pollution Contingency Plan
11 promulgated pursuant to Section 105 of CERCLA,
12 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any
13 amendments thereto.

14 "Paragraph" shall mean a portion of this Consent Decree
15 identified by an arabic numeral or an upper or lower case letter.

16 "Parties" shall mean the United States and the Settling
17 Defendant.

18 "Plaintiff" shall mean the United States of America.

19 "Record of Decision" or "ROD" shall mean the EPA Record of
20 Decision relating to the Site to be signed in the future by the
21 Director, Superfund Division, EPA Region IX, or his/her
22 delegatee, and all attachments thereto.

23 "Remedial Action" shall mean those activities relating to
24 the Site as defined in Section 101(24) of CERCLA,
25 42 U.S.C. § 9601(24).

26 "Response Costs" shall mean all direct and indirect costs
27 relating to Response Actions taken and to be taken relating to

1 the Site.

2 "Response Actions" shall mean those activities relating to
3 the Site as defined in Section 101(25) of CERCLA,
4 42 U.S.C. § 9601(25).

5 "RCRA" shall mean the Solid Waste Disposal Act (also known
6 as the Resource Conservation and Recovery Act),
7 42 U.S.C. § 6901 et seq.

8 "Section" shall mean a portion of this Consent Decree
9 identified by a roman numeral.

10 "Settling Defendant" shall mean Crosby & Overton, Inc.

11 "Site" shall mean Facility together with the areal extent of
12 contamination that is presently located in the vicinity of the
13 Facility and all suitable areas in very close proximity to the
14 contamination necessary for the implementation of the Response
15 Action and any areas to which such contamination migrates.

16 "United States" shall mean the United States of America,
17 including all of its departments, agencies and instrumentali-
18 ties.

19 "Waste Material" shall mean (1) any "hazardous substance"
20 under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any
21 pollutant or contaminant under Section 101(33),
22 42 U.S.C. § 9601(33); and (3) any "solid waste" under Section
23 1004(27) of RCRA, 42 U.S.C. § 6903(27).

24 V. SITE BACKGROUND

25 4. Paragraphs 5 through 14 below contain a summary of the
26 Site background as alleged by the United States which, for
27 purposes of this Consent Decree, Settling Defendant neither

1 admits nor denies.

2 5. The Facility is the former Casmalia Resources Hazardous
3 Waste Management Facility, an inactive commercial hazardous waste
4 treatment, storage, and disposal facility, which accepted large
5 volumes of hazardous substances from 1973 to 1989. Located on a
6 252-acre parcel in Santa Barbara County, California, the Site
7 consisted of six landfills, numerous surface impoundments,
8 disposal trenches, injection wells, waste spreading areas and
9 tank treatment systems.

10 6. The Facility is located near the southern end of the
11 Casmalia Hills in the Santa Maria Basin of coastal California.
12 Th Facility is situated within the Shuman Canyon drainage sub-
13 basin on a southern facing slope traversed by three small
14 canyons. Casmalia Creek, about 500 feet west, is the surface
15 water body nearest to the Facility. This creek flows to the
16 southwest to join Shuman Creek approximately one mile southwest
17 of the town of Casmalia. Shuman Creek continues southward and
18 westward, discharging eventually into the Pacific Ocean.

19 7. Hazardous substances within the definition of Section
20 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been, or threaten
21 to be, released into the environment at and from the Facility.
22 These hazardous substances include a wide variety of organic and
23 inorganic compounds.

24 8. During the Facility's sixteen years of operation, the
25 owner(s)/operator(s) accepted in excess of 5.5 billion documented
26 pounds of liquid and solid wastes for disposal and treatment at
27 the Site.

1 9. From 1980 to 1989, the Facility had interim status
2 pursuant to RCRA. Because of continuing deficiencies in facility
3 operations, no final RCRA permit was granted. The Facility has
4 not been closed in accordance with the requirements of RCRA.

5 10. In late 1989, the owner(s)/operator(s) ceased accepting
6 off-site waste shipments to the Facility and, in the early 1990s,
7 the owner(s)/operator(s) stopped all active efforts to properly
8 close and remediate the Facility.

9 11. After the Facility's owner(s)/operator(s) ceased all
10 active efforts to properly close and remediate the Facility,
11 conditions at the Facility deteriorated and became unstable.

12 12. As a result of the release or threatened release of
13 hazardous substances at or from the Facility, EPA has undertaken
14 Response Actions pursuant to Section 104 of CERCLA,
15 42 U.S.C. § 9604, and will undertake additional Response Actions
16 in the future. In August 1992, EPA commenced a removal action
17 under CERCLA to implement certain Facility stabilization actions,
18 prevent further deterioration of Facility conditions, and control
19 the most immediate threats. The Facility continues to pose an
20 imminent and substantial endangerment to the public and the
21 environment.

22 13. In performing the Response Actions, the United States
23 had incurred and will continue to incur Response Costs relating
24 to the Facility. As of October 31, 1999, the United States has
25 incurred in excess of \$22 million in Response Costs relating to
26 the Facility.

27 14. Based on current information, EPA estimates that the

1 total Response Costs incurred and to be incurred by the United
2 States and by private parties relating to the Facility is at
3 least \$271.9 million.

4 VI. PURPOSE

5 15. The mutual objectives of the Parties in entering into
6 this Consent Decree are more precisely described in the terms of
7 this Consent Decree:

8 a. to reach a final settlement that allows the
9 Settling Defendant to resolve its potential liability to the
10 United States at the Facility in accordance with the covenants
11 and subject to the reservations and reopeners set out in this
12 Consent Decree;

13 b. to resolve the claims that Settling Defendant
14 could have asserted against the United States; and

15 c. to provide for contribution protection for
16 Settling Defendant with regard to matters addressed in this
17 Consent Decree pursuant to Section 113(f)(2) of CERCLA,
18 42 U.S.C. § 9613(f)(2).

19 VII. CASH PAYMENT

20 16. Payment by Settling Defendant

21 a. Deadline for Payment: Settling Defendant shall pay the
22 following amounts in accordance with the instructions provided in
23 Paragraph 16(b) (Payment Instructions) and on the following
24 schedule:

25 i. Within thirty (30) Days of lodging of this Consent
26 Decree, the Settling Defendant shall pay \$196,992.

27 ii. Within 12 months after the date of entry of this

1 Consent Decree, the Settling Defendant shall pay
2 \$196,992 plus interest on that amount accruing from the
3 date of entry at an annualized rate of 3.35 percent.

4 iii. Within 24 months after the date of entry of this
5 Consent Decree, the Settling Defendant shall pay
6 \$196,992 plus interest on that amount accruing from the
7 date of entry at an annualized rate of 3.35 percent.

8 b. Payment Instructions. Unless otherwise instructed by
9 EPA, payment shall be made by wire transfer to:

10 Bankers Trust Co.
11 c/o Mr. Thomas Hacker
12 4 Albany Street
13 New York , N.Y. 10006
14 ABA/Locator #: 021-001-033
15 Acct. #: 01-419-647
16 REF: Casmalia Resources Site Custodial Agreement
17 Payor: Crosby & Overton, Inc.

18 Payment shall precisely reference the name of the Settling
19 Defendant. Any payments received by the Escrow Account after
20 5:00 p.m. Pacific Daylight Savings Time will be credited on the
21 next business day. At the time of payment, Settling Defendant
22 shall submit a copy of the completed Payment Invoice to:

23 Casmalia Case Team
24 United States Environmental Protection Agency
25 Region IX
26 75 Hawthorne Street (SFD-7-1)
27 San Francisco, CA 94105-3901.

28 Payment instructions are attached hereto as Appendix B, and a
29 Payment Invoice Form is attached hereto as Appendix C. This
30 Payment Invoice should be completed by Settling Defendant and
31 returned to EPA.

32 c. Alternate Account. Although this Consent Decree is not
33 intended to amend or supercede the CSC Consent Decree, in the

1 event the CSC Consent Decree is declared invalid or otherwise
2 determined not to be binding upon the United States by the Court
3 prior to the transfer of funds to the Escrow Account pursuant to
4 Paragraph (b), above, or upon the consent of EPA and the CSC as
5 to an alternative account pursuant to the CSC Consent Decree, the
6 Settling Defendants shall pay the funds to an alternate account
7 that will be specified in the future by the United States which
8 shall be used to fund Response Costs or Response Actions at the
9 Site.

10 VIII. FAILURE TO COMPLY WITH REQUIREMENTS OF CONSENT DECREE

11 17. Interest on Late Payments

12 a. In the event a payment required by Paragraph 16 above
13 is not made, the Settling Defendant shall be liable to the United
14 States for Interest on the unpaid amount beginning on the date
15 that payment is due and continuing through the date of payment.

16 b. Any Interest due by operation of Paragraph 17(a) shall
17 be paid by a separate wire transfer and shall be sent
18 simultaneously with the payment required by Paragraph 16 (Payment
19 by Settling Defendant). Payment of Interest shall be made as
20 provided in Paragraph 16(b) (Payment Instructions).

21 IX. STIPULATED PENALTY

22 18. In the event a payment required by Paragraph 16 is not
23 made, in addition to the accrual of Interest on any unpaid
24 amounts as set forth in Paragraph 17(a), the Settling Defendant
25 shall be liable to the United States for a stipulated penalty in
26 the amount of \$100,000.

27 19. The stipulated penalty provided for in Paragraph 18

1 shall be due and payable within 30 Days of the date of the demand
2 for payment of the penalty by EPA. Payment of this stipulated
3 penalty shall be made by separate check and shall be sent
4 simultaneously with the payments required by Paragraphs 16 and
5 17. Payment of the Stipulated Penalty shall be made by separate
6 wire transfer and shall be sent as provided in Paragraph 16(b).

7 20. If the United States brings an action to enforce this
8 Consent Decree, Settling Defendant shall reimburse the United
9 States for all costs of such action, including but not limited to
10 all enforcement and attorney time costs.

11 21. Payments made under this Section shall be in addition
12 to any other remedies or sanctions available to Plaintiff by
13 virtue of Settling Defendant's failure to comply with the
14 requirements of this Consent Decree.

15 22. Notwithstanding any other provision of this Section,
16 the United States may, in its unreviewable discretion, waive
17 payment of any portion of the stipulated penalty provided for
18 under this Section. Payment of the stipulated penalty shall not
19 excuse Settling Defendant from payment as required by Section VII
20 or from performance of any other requirements of this Consent
21 Decree.

22 X. COVENANTS BY PLAINTIFF

23 23. In consideration of the payments that will be made by
24 the Settling Defendant under the terms of the Consent Decree, and
25 except as specifically provided in Paragraphs 24, 25, and 26 of
26 this Consent Decree, the United States covenants not to sue or to
27 take administrative action against Settling Defendant pursuant to

1 Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606, 9607, and
2 Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the Site.
3 These covenants not to sue shall take effect upon the receipt by
4 EPA of the payments required by Paragraph 16 of Section VII
5 (Payment by Settling Defendant), Paragraph 17 (Interest on Late
6 Payments) and Paragraph 18 (Stipulated Penalty) upon the entry of
7 this Consent Decree by the Court. These covenants not to sue are
8 conditioned upon the satisfactory performance by Settling
9 Defendant of its obligations under this Consent Decree. These
10 covenants not to sue extend only to the Settling Defendant and do
11 not extend to any other person. Notwithstanding any other
12 provision in this Consent Decree, this covenant not to sue shall
13 not extend to the Settling Defendant to the extent that the
14 Settling Defendant, or a subsidiary, or affiliated entity of the
15 Settling Defendant, sent Waste Material that is both (1) not from
16 a facility or specific location identified on a manifest listed
17 in Appendix D, and (2) not included in the volume attributed to
18 the Settling Defendant as set forth in Appendix D.

19 XI. RESERVATION OF RIGHTS

20 24. General reservations of rights. The United States
21 reserves, and this Consent Decree is without prejudice to, all
22 rights against Settling Defendant with respect to all matters not
23 expressly included within Plaintiff's covenant not to sue.
24 Notwithstanding any other provision of this Consent Decree, the
25 United States reserves all rights against Settling Defendant with
26 respect to:

27 a. claims based on a failure by Settling Defendant to

1 meet a requirement of this Consent Decree;

2 b. liability arising from the past, present, or
3 future disposal, release, or threat of release of Waste Material
4 outside of the Site;

5 c. liability for damages for injury to, destruction
6 of, or loss of natural resources, and for the costs of any
7 natural resource damage assessments;

8 d. criminal liability; and

9 e. liability arising from any future disposal or
10 treatment of a hazardous substance, pollutant or contaminant at
11 the Site by Settling Defendant.

12 25. United States' Pre-certification Reservations.

13 Notwithstanding any other provision of this Consent Decree, the
14 United States reserves, and this Consent Decree is without
15 prejudice to, the right to institute proceedings in this action
16 or in a new action, or to issue an administrative order, seeking
17 to compel Settling Defendant:

18 a. to perform further Response Actions relating to
19 the Site, or

20 b. to reimburse the United States for additional
21 costs of response if, prior to Certification of
22 Completion of the Remedial Action:

23 (1) conditions at the Site, previously unknown to
24 EPA, are discovered, or

25 (2) information, previously unknown to EPA, is
26 received, in whole or in part,

27 and EPA determines that these previously unknown conditions or

1 information together with any other relevant information
2 indicates that the Remedial Action is not protective of human
3 health or the environment.

4 26. United States' Post-certification Reservations.

5 Notwithstanding any other provision of this Consent Decree, the
6 United States reserves, and this Consent Decree is without
7 prejudice to, the right to institute proceedings in this action
8 or in a new action, or to issue an administrative order, seeking
9 to compel Settling Defendant:

10 a. to perform further Response Actions relating to
11 the Site, or

12 b. to reimburse the United States for additional
13 costs of response if, subsequent to Certification
14 of Completion of the Remedial Action:

15 (1) conditions at the Site, previously unknown to
16 EPA, are discovered, or

17 (2) information, previously unknown to EPA, is
18 received, in whole or in part,

19 and EPA determines that these previously unknown conditions or
20 this information together with other relevant information
21 indicate that the Remedial Action is not protective of human
22 health or the environment.

23 27. For purposes of Paragraph 25, the information and the
24 conditions known to EPA shall include only that information and
25 those conditions known to EPA as of the date the ROD is signed
26 and set forth in the Record of Decision for the Site and the
27 administrative record supporting the Record of Decision. For

1 purposes of Paragraph 26 the information and the conditions known
2 to EPA shall include only that information and those conditions
3 known to EPA as of the date of Certification of Completion of the
4 Remedial Action and set forth in the Record of Decision, the
5 administrative record supporting the Record of Decision, the
6 post-ROD administrative record, or in any information received by
7 EPA pursuant to the requirements of this Consent Decree prior to
8 Certification of Completion of the Remedial Action.

9 28. Notwithstanding any other provision of this Consent
10 Decree, the United States retains all authority and reserves all
11 rights to take any and all Response Actions authorized by law.

12 XII. COVENANTS BY SETTLING DEFENDANT

13 29. Covenant Not to Sue by Settling Defendant. Subject to
14 the reservations in Paragraph 30, Settling Defendant hereby
15 covenants not to sue and agrees not to assert any claims or
16 causes of action against the United States with respect to the
17 Site or this Consent Decree, including, but not limited to:

18 a. any direct or indirect claim for reimbursement
19 from the Hazardous Substance Superfund (established pursuant to
20 the Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA
21 Sections 106(b)(2), 107, 111, 112, 113 or any other provision of
22 law;

23 b. any claims against the United States, including
24 any department, agency or instrumentality of the United States
25 under CERCLA Sections 107 or 113 related to the Site; and

26 c. any claims arising out of Response Actions at or
27 in connection with the Site, including any claim under the United

1 States Constitution; the Tucker Act, 28 U.S.C. § 1491, the Equal
2 Access to Justice Act, 28 U.S.C. § 2412, as amended; or at common
3 law. Except as provided in Paragraph 32(a) (Waiver of Claims
4 Against MSW and MSS Parties), Paragraph 32(b) (Waiver of Claims
5 Against *De Micromis* Parties), Paragraph 33 (Waiver of Claims
6 Against *De Minimis* Parties), and Paragraph 38 (Waiver of
7 Defenses), these covenants not to sue shall not apply in the
8 event that the United States brings a cause of action or issues
9 an order pursuant to the reservations set forth in Paragraphs 24,
10 25, or 26, but only to the extent the Settling Defendant's claims
11 arise from the same Response Action, Response Costs, or damages
12 that the United States is seeking pursuant to the applicable
13 reservation.

14 30. The Settling Defendant reserves, and this Consent
15 Decree is without prejudice to, claims against the United States,
16 subject to the provisions of Chapter 171 of Title 28 of the
17 United States Code, for money damages for injury or loss of
18 property or personal injury or death caused by the negligent or
19 wrongful act or omission of any employee of the United States
20 while acting within the scope of his office or employment under
21 circumstances where the United States, if a private person, would
22 be liable to the claimant in accordance with the law of the place
23 where the act or omission occurred. However, any such claim
24 shall not include a claim for any damages caused, in whole or in
25 part, by the act or omission of any person, including any
26 contractor, who is not a federal employee as that term is defined
27 in 28 U.S.C. § 2671; nor shall any such claim include a claim

1 based on EPA's selection of Response Actions, or the oversight or
2 approval of the Settling Defendant's plans or activities. The
3 foregoing applies only to claims which are brought pursuant to
4 any statute other than CERCLA and for which the waiver of
5 sovereign immunity is found in a statute other than CERCLA.

6 31. Nothing in this Consent Decree shall be deemed to
7 constitute preauthorization of a claim within the meaning of
8 Section 111 of CERCLA, 42 U.S.C. § 9611, or
9 40 C.F.R. § 300.700(d).

10 32. Settling Defendant agrees not to assert any claims and
11 to waive all claims or causes of action that Settling Defendant
12 may have for all matters relating to the Site, including for
13 contribution, against any person where the person's liability to
14 Settling Defendant with respect to the Site is based solely on
15 having arranged for disposal or treatment, or for transport for
16 disposal or treatment, of hazardous substances at the Site, or
17 having accepted for transport for disposal or treatment of
18 hazardous substances at the Site, if:

19 a. any materials contributed by such person to the
20 Site constituting MSW or MSS did not exceed 0.2% of the total
21 volume of waste at the Site; and

22 b. any materials contributed by such person to the
23 Site containing hazardous substances, but not constituting MSW or
24 MSS, did not exceed the greater of (i) 0.002% of the total volume
25 of waste at the Site, or (ii) 110 gallons of liquid materials or
26 200 pounds of solid materials. This waiver shall not apply to
27 any claim or cause of action against any person meeting the above

1 criteria if EPA has determined that the materials contributed to
2 the Site by such person contributed or could contribute
3 significantly to the costs of response at the Site. This waiver
4 also shall not apply with respect to any defense, claim, or cause
5 of action that a Settling Defendant may have against any person
6 if such person asserts a claim or cause of action relating to the
7 Site against such Settling Defendant.

8 33. Settling Defendant agrees not to assert any claims and
9 to waive all claims or causes of action that they may have for
10 all matters relating to the Site, including for contribution,
11 against any person that has entered into a final CERCLA § 122(g)
12 *de minimis* settlement with EPA with respect to the Site as of the
13 Effective Date. This waiver shall not apply with respect to any
14 defense, claim, or cause of action that a Settling Defendant may
15 have against any person if such person asserts a claim or cause
16 of action relating to the Site against such Settling Defendant.

17 XIII. EFFECT OF SETTLEMENT; CONTRIBUTION PROTECTION

18 34. Except as provided in Paragraph 32(a) (Waiver of Claims
19 Against MSW and MSS Parties), Paragraph 32(b) (Waiver of Claims
20 Against *De Micromis* Parties) and Paragraph 33 (Waiver of Claims
21 Against *De Minimis* Parties), nothing in this Consent Decree shall
22 be construed to create any rights in, or grant any cause of
23 action to, any person not a Party to this Consent Decree. The
24 preceding sentence shall not be construed to waive or nullify any
25 rights that any person not a signatory to this decree may have
26 under applicable law. Except as provided in Paragraph 32(a)
27 (Waiver of Claims Against MSW and MSS Parties), Paragraph 32(b)

1 (Waiver of Claims Against *De Micromis* Parties) and Paragraph 33
2 (Waiver of Claims Against *De Minimis* Parties), each of the
3 Parties expressly reserves any and all rights (including, but not
4 limited to, any right to contribution), defenses, claims,
5 demands, and causes of action that each Party may have with
6 respect to any matter, transaction, or occurrence relating in any
7 way to the Site against any person not a Party hereto.

8 35. The Parties agree, and by entering this Consent Decree
9 this Court finds, that the Settling Defendant is entitled, as of
10 the Effective Date, to protection from contribution actions or
11 claims as provided by CERCLA Section 113(f)(2), 42 U.S.C.
12 § 9613(f)(2), for matters addressed in this Consent Decree. The
13 "matters addressed" in this Consent Decree are all Response
14 Actions taken and to be taken and all Response Costs incurred and
15 to be incurred by the United States at the Site, except for those
16 claims otherwise reserved in this Consent Decree.
17 Notwithstanding any other provision in this Consent Decree, the
18 matters addressed do not extend to the Settling Defendant to the
19 extent that the Settling Defendant, or a subsidiary, or
20 affiliated entity of the Settling Defendant, sent Waste Material
21 that is both (1) not from a facility or specific location
22 identified on a manifest listed in Appendix D, and (2) not
23 included in the volume attributed to that Settling Defendant as
24 set forth in Appendix D.

25 36. The Settling Defendant agrees that with respect to any
26 suit or claim for contribution brought by Settling Defendant for
27 matters related to this Consent Decree, Settling Defendant will

1 notify the United States in writing no later than 60 Days prior
2 to the initiation of such suit or claim.

3 37. The Settling Defendant also agrees that with respect to
4 any suit or claim for contribution brought against Settling
5 Defendant for matters related to this Consent Decree, they will
6 notify in writing the United States within 10 Days of service of
7 the complaint on Settling Defendant. In addition, Settling
8 Defendant shall notify the United States within 10 Days of
9 service or receipt of any Motion for Summary Judgment and within
10 10 Days of receipt of any order from a court setting a case for
11 trial.

12 38. In any subsequent administrative or judicial proceeding
13 initiated by the United States for injunctive relief, recovery of
14 Response Costs, or other appropriate relief relating to the Site,
15 Settling Defendant shall not assert, and may not maintain, any
16 defense or claim based upon the principles of waiver, res
17 judicata, collateral estoppel, issue preclusion, claim-splitting,
18 or other defenses based upon any contention that the claims
19 raised by the United States in the subsequent proceeding were or
20 should have been brought in the instant case; provided, however,
21 that nothing in this Paragraph affects the enforceability of the
22 covenants set forth in Section X (Covenants by Plaintiff).

23 XIV. RETENTION OF RECORDS

24 39. Until 10 years after the Effective Date of this Consent
25 Decree, Settling Defendant shall preserve and retain all non-
26 identical copies of records and documents (including records or
27 documents in electronic form) now in its possession or control,

1 or that come into its possession or control, that relate in any
2 manner to its liability under CERCLA or RCRA with respect to the
3 Site. No claim of confidentiality shall be made with respect to
4 any data, including but not limited to, all sampling, analytical,
5 monitoring, hydrogeologic, scientific, chemical, or engineering
6 data, or any other documents or information evidencing conditions
7 at or around the site. The above record retention requirements
8 shall apply regardless of any corporate retention policy to the
9 contrary.

10 40. At the conclusion of this document retention period,
11 Settling Defendant shall notify the United States at least 90
12 Days prior to the destruction of any such records or documents
13 and, upon request by the United States, Settling Defendant shall
14 deliver any such records or documents to EPA. The Settling
15 Defendant may assert that certain documents, records and other
16 information are privileged under the attorney-client privilege or
17 any other privilege recognized by federal law. If the Settling
18 Defendant asserts such a privilege, Settling Defendant shall
19 provide the Plaintiff with the following: (1) the title of the
20 document, record, or information; (2) the date of the document,
21 record, or information; (3) the name and title of the author of
22 the document, record, or information; (4) the name and title of
23 each addressee and recipient; (5) a description of the subject of
24 the document, record, or information; and (6) the privilege
25 asserted by Settling Defendant. However, no documents, reports
26 or other information created or generated pursuant to the
27 requirements of this Consent Decree shall be withheld on the

1 grounds that they are privileged.

2 41. Settling Defendant hereby certifies that, to the best
3 of its knowledge and belief, after thorough inquiry, it has not
4 altered, mutilated, discarded, destroyed or otherwise disposed of
5 any records, documents or other information (other than identical
6 copies) relating to its potential liability regarding the Site
7 since notification of potential liability by the United States or
8 the filing of suit against it regarding the Site and that it has
9 fully complied with any and all EPA requests for information
10 pursuant to Section 104(e) and 122(e) of CERCLA, 42 U.S.C.
11 9604(e) and 9622(e), and Section 3007 of RCRA,
12 42 U.S.C. 6927.

13 XV. NOTICES AND SUBMISSIONS

14 42. Whenever, under the terms of this Consent Decree,
15 written notice is required to be given or other document is
16 required to be sent by one Party to another, it shall be directed
17 to the individuals at the addresses specified below, unless those
18 individuals or their successors give notice of a change to the
19 other Parties in writing. All notices and submissions shall be
20 considered effective upon receipt, unless otherwise provided.
21 Written notice as specified herein shall constitute complete
22 satisfaction of any written notice requirement of the Consent
23 Decree with respect to the United States, EPA and the Settling
24 Defendant, respectively.

25

26 As to the United States:

27 Chief, Environmental Enforcement Section
Environment and Natural Resources Division

1 U.S. Department of Justice
P.O. Box 7611
2 Washington, D.C. 20044-7611
Re: DJ # 90-7-1-611a

3
4 Director, Superfund Division
United States Environmental Protection
Agency, Region 9
5 75 Hawthorne Street
San Francisco, CA 94105

6
7 Kent Kitchingman
EPA Project Coordinator
United States Environmental Protection
8 Agency, Region 9
75 Hawthorne Street
9 San Francisco, CA 94105

10 As to the Settling Defendant:

11 John J. Allen, Esq.
12 Allen Matkins Leck Gamble & Mallory LLP
515 South Figueroa Street, 7th Floor
13 Los Angeles, CA 90071-3398

14 XVI. RETENTION OF JURISDICTION

15 43. This Court retains jurisdiction over both the subject
16 matter of this Consent Decree and the Settling Defendant for the
17 duration of the performance of the terms and provisions of this
18 Consent Decree for the purpose of enabling any of the Parties to
19 apply to the Court at any time for such further order, direction,
20 and relief as may be necessary or appropriate for the
21 construction or modification of this Consent Decree, or to
22 effectuate or enforce compliance with its terms.

23 XVII. INTEGRATION/APPENDICES

24 44. The following appendices are attached to and
25 incorporated into this Consent Decree:

26 "Appendix A" is the description and/or map of the Site.

27 "Appendix B" is the payment instructions.

1 "Appendix C" is the Payment Invoice Form.

2 "Appendix D" a complete list of the facilities and volumes
3 covered by this Consent Decree.

4 XVIII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

5 45. This Consent Decree shall be lodged with the Court for
6 a period of not less than thirty (30) Days for public notice and
7 comment in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C.
8 § 9622(d)(2), 28 C.F.R. § 50.7, and Section 7003(d) of RCRA, 42
9 U.S.C. § 6973(d). Commenters may request an opportunity for a
10 public hearing in the affected area, in accordance with Section
11 7003(d) of RCRA, 42 U.S.C. § 6973(d). The United States reserves
12 the right to withdraw or withhold its consent if the comments
13 regarding the Consent Decree disclose facts or considerations
14 that indicate that the Consent Decree is inappropriate, improper,
15 or inadequate. Settling Defendant consents to the entry of this
16 Consent Decree without further notice.

17 46. If for any reason the Court should decline to approve
18 this Consent Decree in the form presented, this agreement is
19 voidable at the sole discretion of any Party and the terms of the
20 agreement may not be used as evidence in any litigation between
21 the Parties.


22 XIX. EFFECTIVE DATE

23 47. The effective date of this Consent Decree shall be the
24 date upon which this Consent Decree is entered by the Court.

1 the Parties with respect to the settlement embodied in the
2 Consent Decree. The Parties acknowledge that there are no
3 representations, agreements or understandings relating to the
4 settlement other than those expressly contained in this Consent
5 Decree.

6 52. Upon approval and entry of this Consent Decree by the
7 Court, this Consent Decree shall constitute a final judgment
8 between and among the United States and the Settling Defendant.
9 The Court finds that there is no just reason for delay and
10 therefore enters this judgment as a final judgment under Fed. R.
11 Civ. P. 54 and 58.

12
13 SO ORDERED THIS 21st DAY OF July, 2003.

14
15 
16 Honorable Christina A. Snyder
17 United States District Court
18 Judge
19
20
21
22
23
24
25
26
27

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the
2 matter of United States v. Crosby & Overton, Inc., relating
3 to the Casmalia Resources Hazardous Waste Superfund Site.

4 FOR THE UNITED STATES OF AMERICA

5 1.10.03
6 Date

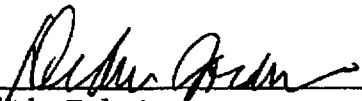
Tom Sansonetti
Thomas Sansonetti
Assistant Attorney
General
Environment and Natural
Resources Division
United States Department of
Justice

11
12 Date


B. R. O'Brien
Bradley R. O'Brien
Environmental Enforcement
Section
Environment and Natural
Resources Division
United States Department of
Justice

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the
2 matter of United States v. Crosby & Overton, Inc., relating
3 to the Casmalia Resources Hazardous Waste Superfund Site.

4 11/15/02
5 Date


for Keith Takata
Director, Superfund Division,
Region IX
United States Environmental
Protection Agency


8
9 10/23/02
10 Date


Thomas A. Bloomfield
Assistant Regional Counsel
Office of Regional Counsel,
Region IX
United States Environmental
Protection Agency

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the
2 matter of United States v. Crosby & Overton, Inc., relating
3 to the Casmalia Resources Hazardous Waste Superfund Site.

4
5 FOR CROSBY & OVERTON, INC.

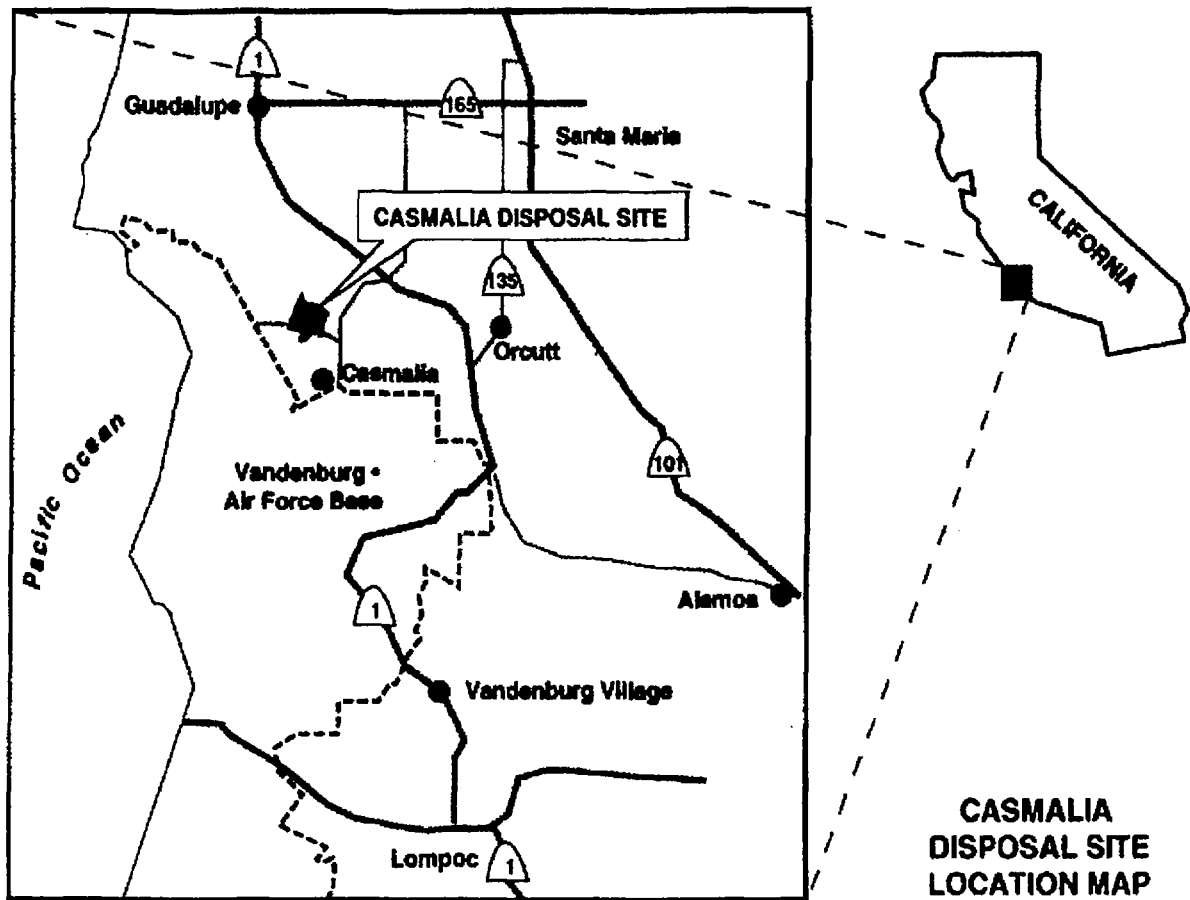
6 10/9/2002
7 Date

8
9 Signature: 
10 Name (print): Michael A. Shlob
11 Title: Executive Vice President
12 Address: 1610 W. 17th Street
13 Long Beach, CA 90813

14
15 Agent Authorized to Accept Service on Behalf of Above-signed
16 Party:

17
18 Name (print): John J. Allen, Esq.
19 Title: Counsel for Crosby & Overton, Inc.
20 Address: Allen Matkins Leck Gamble & Mallory LLP
21 515 S. Figueroa Street, 7th Floor
22 Los Angeles, CA 90071-3398
23 Ph. Number: (213) 955-5548
24
25
26
27

Appendix A
Site Location Map



United States v. Crosby & Overton, Inc.
Appendix B - Payment Instructions



PAYMENT INSTRUCTIONS

CASMALIA DISPOSAL SITE

Step 1. Remit payment in full by wire transfer in accordance with the payment instructions in Paragraph 16 (Payment by Settling Defendant) of the Consent Decree. **Payment must be made directly to Bankers Trust, custodian of the Casmalia Consent Decree Escrow Account. EPA cannot accept checks made out directly to the Agency.**

Step 2. Complete the Payment Invoice and send it to Bankers Trust.

Please remit payment as described in Steps 1 and 2 above in the following manner:

Wire funds to:

Bankers Trust Co.
c/o Mr. Alexies Sornoza
4 Albany Street, New York, NY 10006
ABA/Locator #: 021-001-033
Acct #: 01-419-647
Ref: Casmalia Resources Site Custodial Agreement
Payor: Crosby & Overton, Inc.

Please include all of the above information in remitting payment by wire transfer.

Mail Payment Invoice to:

"BTCO. as Custodian for Casmalia Resources Site"
Deutsche Bank Trust Company Americas
Corporate Trust and Agency Services #300201
P.O. Box 12099
Newark, NJ 07101

Please send the document identified above in Step 2 to:

Casmalia Case Team
U.S. EPA Region IX
75 Hawthorne Street (SFD-7-1)
San Francisco, CA 94105-3901

Casmalia Disposal Site

Payment Instructions



PAYMENT INVOICE CASMALIA DISPOSAL SITE

Appendix C

Please complete this form and mail the completed form to:

"BTCO. as Custodian for Casmalia Resources Site"
Deutsche Bank Trust Company Americas
Corporate Trust and Agency Services - #300201
Post Office Box 12099
Newark, NJ 07101

This form should accompany your payment if your company or organization pays by cashier's or certified check. It should be sent without your payment if your company or organization wired payment to Bankers Trust (see Settlement Instructions).

Please send a copy of your form to:

Casmalia Case Team
U.S. EPA Region IX
75 Hawthorne St. (SFD-7-1)
San Francisco, CA 94105-3901

PAYOR	Crosby & Overton, Inc.
COMPANY NAME IF DIFFERENT FROM Above.	
DATE	
PAYMENT AMOUNT	
MANNER IN WHICH PAYMENT IS BEING MADE (i.e., wire transfer or check)	
CHECK NUMBER (if applicable)	
SIGNATORY OF CHECK (if applicable)	
REFERENCE	Casmalia Resources Site Custodial Agreement
U.S. EPA REGIONAL SITE SPILL ID NUMBER	09-3H

Appendix D
Crosby & Overton Inc.

<u>Facility Name</u>	<u>Facility Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>	<u>QTY. (lbs.)</u>
Crosby & Overton Inc.	S CE ?				20,260
Crosby & Overton Inc.	Port Huemene	Port Hueneme	CA		15,900
Crosby & Overton Inc.	Morro Bay				31,580
Crosby & Overton Inc.	Dock #3	Port Hueneme	CA		34,200
Crosby & Overton Inc.	Chevron	Carpinteria	CA		120,400
Crosby & Overton Inc.	2971 Ventura Rd	Nyland Acres	CA		75,380
Crosby & Overton Inc.	1620 W 16th St	Long Beach	CA	90813	280,232
Crosby & Overton Inc.	1610 W 17th St	Long Beach	CA	90813	10,988,450
Crosby & Overton Inc.	? Dock #5	Hueneme	CA		31,880
Crosby & Overton Inc.					74,380
TOTAL:					<u><u>11,672,662</u></u>

CDM193848